

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES CONTANT, *et al.*,

Plaintiffs,

v.

BANK OF AMERICA
CORPORATION, *et al.*,

Defendants.

No. 17-cv-3139-LGS

(related to No. 13-cv-7789-LGS)

~~PROPOSED~~ ORDER GRANTING PLAINTIFFS' MOTION FOR REIMBURSEMENT
OF SETTLEMENT ADMINISTRATION COSTS, A SUPPLEMENTAL AWARD OF
ATTORNEYS' FEES AND *CY PRES* AWARD OF ANY REMAINING NET
SETTLEMENT FUNDS

WHEREAS, Plaintiffs filed a motion to disburse the Net Settlement Funds to authorized Claimants on November 30, 2021 (ECF Nos. 538-41);

WHEREAS, on January 5, 2022, the Court granted the motion and ordered a distribution pursuant to the Plan of Allocation but stayed the distribution of the Net Settlement Funds due to claimant AMA Capital Management LLC's ("AMA") appeal of the portion of its claim denied for lack of substantiation (ECF No. 562);

WHEREAS, on April 14, 2023, the Second Circuit affirmed this Court's orders concerning AMA's claim and its motion to intervene (*Contant v. AMA Cap., LLC*, 66 F.4th 59 (2d Cir. 2023));

WHEREAS, on May 8, 2023, the Second Circuit Court of Appeals issued its mandate sending the case back to this Court (ECF No. 578);

WHEREAS, on January 5, 2024, the Court approved the *pro rata* distribution of the Net Settlement Funds to authorized Claimants pursuant to a distribution plan proposed by Class Counsel (ECF No. 620);

WHEREAS, on January 24, 2024, the first tranche of distribution checks to authorized Claimants were issued (ECF No. 621) and the mailing of checks was completed by February 6, 2024 (ECF No. 626-1);

WHEREAS, funds remain in (i) the Claim Administrator's settlement distribution account from uncashed checks by authorized Claimants after numerous attempts to reissue those checks, and (ii) a Net Settlement Fund bank account containing unused funds that were held in reserve for contingent events;

WHEREAS, the Court has considered the Motion for Reimbursement of Settlement Administration Costs, Supplemental Award of Attorneys' Fees and *Cy Pres* Award of the Remaining Net Settlement Funds, and other documents submitted in support;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:


1. Payment of \$60,755.01 to the Claims Administrator Kroll Settlement Administration LLC ("Kroll") is hereby approved.
2. Payment to Kroll of \$2,000.00 to complete settlement administration is hereby approved.
3. Payment of \$39,860.67 to applEcon is hereby approved.
4. Payment to Class Counsel of \$6,083.55 for expenses and \$50,000 for funds advanced to pay taxes owed is hereby approved.
5. Payment of \$307,564.25 to Class Counsel as a supplemental attorneys' fee award is hereby ~~approved~~. **denied. The prior fee award was based primarily on the settlement fund amount and the *Goldberger* factors and not the lodestar.**

6. ~~A *cy pres* distribution to The Legal Aid Society as to all funds remaining, if any, after all other Court approved payments have been made is hereby approved.~~

When all settlement funds have been disbursed except for any *cy pres* distribution, class counsel shall file a letter and include an accounting showing where the settlement funds have been disbursed, the amount proposed for any *cy pres* distribution and the source of those funds (e.g. uncashed checks), and why distribution of that amount to class members is impracticable.

SO ORDERED.

Dated: October 8, 2024


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE